

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ARNOLD KREEK, individually and on behalf  
of all others similarly situated,

Plaintiffs,

v.

WELLS FARGO & COMPANY, WELLS  
FARGO FUNDS MANAGEMENT, LLC,  
WELLS FARGO FUNDS TRUST, WELLS  
FARGO DISTRIBUTORS, STEPHENS, INC.,  
WELLS FARBO BANK, N.A.,

Defendants.

No. C 08-01830 WHA

**REQUEST FOR INFORMATION  
FROM LEAD PLAINTIFF  
CANDIDATES**

The motions to appoint lead plaintiff are currently set for Thursday, July 31, 2008. As opposed to “group” candidates, the Court wishes to evaluate the qualifications of single investors, either institutional investors or individuals, to serve as lead plaintiff. *See In re Network Assocs., Inc., Sec. Litig.*, 76 F. Supp. 2d 1017, 1019–27 (N.D. Cal. 1999) (Alsup, J.). The Court is particularly interested in considering single investors with large losses and in evaluating their experience in managing litigation. Any “group” of movants must narrow its candidates to one or two single investors and file answers to the appended questionnaire by **THURSDAY, JULY 17, 2008**, including the certification called for therein.

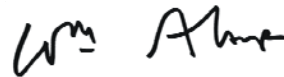
Each candidate must attend the hearing on July 31, 2008, and be prepared to answer questions. They should also be prepared to critique the methodology used by competing candidates. The Court would also appreciate defense counsel to attend the hearing on lead

1 plaintiff selection. Defense counsel should be prepared to address the accuracy of the  
2 methodology used by candidates to assess their damage claims.

3 All questionnaires and other submissions shall be served both by facsimile and by mail  
4 on all counsel named on the Court's appended service list. Counsel are responsible for  
5 contacting each other and obtaining the correct facsimile number. Applications for class  
6 counsel shall be deferred until after the lead plaintiff has been appointed.

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8 **IT IS SO ORDERED.**

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10 Dated: June 30, 2008.



11 WILLIAM ALSUP  
12 UNITED STATES DISTRICT JUDGE  
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**COURT QUESTIONNAIRE  
TO LEAD-PLAINTIFF  
CANDIDATES**

TO EACH LEAD PLAINTIFF CANDIDATE:

The Court appreciates your interest in serving as the lead plaintiff in this lawsuit. You must personally read this statement of duties of the lead plaintiff and how class counsel will be selected and approved. It is important for you to understand that the lead plaintiff will have to take an active role in managing the lawsuit. You could not, if selected, simply leave the case for counsel to handle.

In 1996, our Congress enacted a statute known as the Private Securities Litigation Reform Act (PSLRA). The PSLRA seeks to place a real investor, not a lawyer, in charge of any securities class action. To do this, the PSLRA created a statutory position of responsibility called "the lead plaintiff." This officer acts as a fiduciary for all members of the proposed class and must manage the case to obtain the largest recovery for the proposed class consistent with good faith and meritorious advocacy.

1 Over the course of the litigation, the lead plaintiff must take affirmative steps to keep  
2 himself or herself reasonably informed on the progress and status of the case, including its  
3 strengths and weaknesses, the prospects for settlement, and the resources invested in the suit or  
4 proposed to be invested. With respect to each major litigation decision — such as important  
5 motions, settlement discussions and trial preparation — the lead plaintiff shall have the  
6 authority and responsibility to manage the case and to direct class counsel, after, of course,  
7 receiving the advice of class counsel. The lead plaintiff shall meet in person with counsel  
8 periodically, shall attend all major hearings and mediation sessions, and shall attend trial. And,  
9 of course, the lead plaintiff must give deposition and trial testimony. No settlement will be  
10 approved by the Court without the lead plaintiff's careful recommendation in favor of it.  
11 Reasonable travel, telephone and business expenses incurred as a result of the lead plaintiff  
12 duties may be reimbursed as expenses from any recovery or may be advanced by class counsel.

13 The first obligation of the lead plaintiff will be to select and propose class counsel for  
14 court approval, an important choice that will warrant care and due diligence. No decision by  
15 the lead plaintiff is more important than the selection of class counsel. Like any other  
16 important decision by a fiduciary, the decision should be preceded by due diligence. The  
17 extent of such due diligence will be a matter of judgment based on the facts and circumstances.  
18 Significantly, even if you have already retained a lawyer for yourself in this matter, if you are  
19 selected as the lead plaintiff, you would assume a higher responsibility, and would then be  
20 obligated to undertake due diligence appropriate to the higher responsibility. In selecting class  
21 counsel, you could not automatically keep your present lawyer.

22 In selecting class counsel, the lead plaintiff has an obligation to assess the trial and  
23 securities track records of the specific lawyer candidate who would perform the actual work  
24 for the class. This requires evaluation of particular, individual lawyers. In exercising due  
25 diligence, it is also important to compare fees and expenses proposed by the candidates, *i.e.*, to  
26 comparison shop. In securities class actions, class counsel are usually awarded a fee (plus all  
27 reasonable expenses) from the recovery. Only the leftover residue is distributed to the class.  
28 The greater the fees and expenses, therefore, the less will be available for the investors. It is

not uncommon for fees and expenses, plus the costs of administration and distribution, to reduce the individual plaintiffs' recovery to a few cents per share. In the Court's experience, excellent candidates will differ substantially in their up-front fee proposals. In one large recent securities case, for example, the fee proposals of excellent candidates varied from as low as eight percent to over twenty-five percent of the eventual recovery. The lead plaintiff has an obligation to the investor class to take such potential savings into account.

Depending upon the facts and circumstances, the Court may require the lead plaintiff to evaluate competitive proposals from various lawyers seeking the job of class counsel. (If so, the Court would post an order soliciting proposals and arrange for the proposals to be delivered to the lead plaintiff.) It is important to the Court, in evaluating the qualifications of lead-plaintiff candidates, to know in advance that the lead-plaintiff candidate is fully prepared to carry out his or her lead-plaintiff responsibilities, as outlined above, and to fully comply with any such process and fully prepared to serve as lead plaintiff even if his or her present counsel is not selected and/or approved as class counsel.

With the benefit of the foregoing information, please answer the following questions in your own handwriting:

1. State your name, address, phone and fax number.

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2. What are your qualifications to be the lead plaintiff?

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3. If you are an institutional investor or other organization, identify the individual who would primarily be in charge of managing your litigation responsibilities as the lead

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plaintiff and the individual's experience and qualifications. State the location of the individual's workplace.

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4. What experience have you had in managing litigation? If you are an institution or organization, do you have an in-house counsel and, if so, what would be his or her role in this case if you were selected as lead plaintiff?

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5. List each transaction you made in the securities at issue up to the present (not just during the class period), including the dollar amounts, the number of shares, the price, and the dates. As to each, were they open-market transactions or negotiated transactions? To what extent were your transactions in the United States versus abroad?

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6. Are there any circumstances that might give rise to possible issues asserted against you that would not generally apply against the rest of the class? Have you ever been

convicted of a crime? If so, state the circumstances. Have you ever been sued in a fraud suit? If so, state the circumstances.

7. Do you have the time and are you willing to travel as needed to carry out the lead-plaintiff responsibilities described above?

8. Is your willingness to serve as a lead plaintiff contingent on being reimbursed by counsel for your expenses in the event there is no recovery in the case?

9. Who prepared and/or reviewed the answers given above? Did any lawyer assist in any way? If so, identify each such lawyer.

10. List each previous case in which the lead-plaintiff candidate has been a lead plaintiff.

Read the following and if you agree with the following, insert your name in the blank and then sign below.

**I have read and understand the above, including the duties of lead plaintiff and the procedure for selecting and approving class counsel. I agree and promise to faithfully execute those provisions. Once class counsel are selected and approved, I will work and cooperate fully with such counsel for the benefit of the investor class and will do so**

1 regardless of whether the selection-and-approval process for counsel results in  
2 appointment of lawyers other than my initial choice.

3 I certify under penalty of perjury that the foregoing is true and correct.  
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7 Dated:

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Lead Plaintiff Candidate

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Name of Lead-Plaintiff Candidate if Organization

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Title of Person Signing on Behalf of Organization  
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